

A BILL

To amend the Communications Act of 1934 to terminate the Telecommunications Development Fund; to provide the Federal Communications Commission with permanent authority to auction spectrum licenses, and with new authority to charge fees for unauctioned spectrum licenses and construction permits; and to clarify the Commission's authority to auction licenses for domestic satellite communications services and terrestrial services on frequencies allocated for mobile satellite services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION. 1. TERMINATION OF THE TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) Section 714 of the Communications Act of 1934, as amended, (47 U.S.C. § 614) is amended by adding the following new subsection at the end thereof:

“(1) TERMINATION. – As of the date of enactment of this act, the Fund is dissolved and shall cease to undertake activities pursuant to this section. Remaining assets and balances of the accounts of the Fund shall be returned and deposited into the general fund of the Treasury.”.

(b) Section 309(j)(8)(C)(iii) of the Communications Act of 1934, as amended, (47 U.S.C. § 309(j)(8)(C)(iii)), is amended by striking everything after “transferred” and inserting in lieu thereof “to the Treasury.”

SEC. 2. PERMANENT EXTENSION OF AUCTION AUTHORITY.

Section 309(j) of the Communications Act of 1934 is amended by repealing paragraph (11).

SEC. 3. AUTHORITY TO ESTABLISH SPECTRUM LICENSE USER FEES.

Section 309 of the Communications Act of 1934 is amended by adding the following new subsection at the end thereof:

“(m) USE OF SPECTRUM LICENSE USER FEES. – For licenses or construction permits or renewals thereof which are not granted through the use of competitive bidding as set forth in subsection (j), the Commission is authorized to establish, assess, and collect annual user fees on holders of spectrum licenses or construction permits, including their successors or assignees, in order to promote efficient and effective use of the electromagnetic spectrum.

“(1) DEVELOPMENT OF FEE REGULATIONS. –

“(A) The Commission shall, by regulation, establish a methodology for assessing annual user fees and a schedule for collection of such fees on classes of spectrum licenses or construction permits consistent with the public interest, convenience and necessity. The Commission may determine over time different classes of spectrum licenses or construction permits upon which such fees may be assessed. In establishing the fee methodology, the Commission may consider the following factors:

“(i) scope and type of permissible services and uses;

“(ii) amount of spectrum and licensed coverage area;

“(iii) shared versus exclusive use;

“(iv) level of demand for spectrum licenses or construction permits within a certain spectrum band or geographic area; and

“(v) other such factors that the Commission determines, in its discretion, are necessary to promote efficient and effective spectrum use.

“(B) Within 60 days of enactment of this Act, the Commission shall commence a rulemaking to develop the fee methodology and regulations. The Commission shall take all actions necessary so that it can collect fees from the first class or classes of spectrum license or construction permit holders no later than September 30, 2008.

“(C) The Commission, from time to time, may commence further rulemakings (separate from or in connection with other rulemakings or proceedings involving spectrum-based services, licenses, permits and uses) and modify the fee methodology or revise its rules required by paragraph (B) to add or modify classes of spectrum license or construction permit holders that must pay fees to reflect appropriate increases or decreases in fees as a result of the addition, deletion, reclassification or other change in a spectrum-based service or use, including changes in the nature of a spectrum-based service or use as a consequence of Commission rulemaking proceedings or changes in law. Any resulting changes in the classes of spectrum licenses, construction permits or fees shall take effect upon the dates established in the Commission’s rulemaking proceeding or by law.

“(D) The Commission shall exempt from such fees public safety licensees, including emergency response providers. The term “emergency response providers” includes State, local, and tribal, emergency public safety, law enforcement, firefighter, emergency response, emergency medical (including

hospital emergency facilities), and related personnel, agencies and authorities.

“(2) PENALTIES FOR LATE PAYMENT. – The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by this subsection.

“(3) REVOCATION OF LICENSE OR PERMIT. – The Commission may revoke any spectrum license or construction permit for a licensee’s or permittee’s failure to pay in a timely manner any fee or penalty to the Commission under this subsection.

“(4) TREATMENT OF REVENUES. – All proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the general fund of the Treasury.”

SEC. 4. AUTHORITY TO AUCTION LICENSES FOR DOMESTIC SATELLITE SERVICES.

Section 309(j) of the Communications Act of 1934 is amended adding the following new subsections at the end thereof:

“(17) Notwithstanding any other provision of law, the Commission shall use competitive bidding to assign any license, construction permit, reservation, or similar authorization or modification thereof, to the extent that it is used solely or predominantly for domestic satellite communications services, including satellite-based television or radio services. A service is defined to be predominantly for domestic services if the majority of customers or revenue associated with the service results from use within the geographic boundaries of the United States. The Commission may, however, use an alternative approach to assignment of licenses or similar authorities if it finds that such an alternative to competitive bidding would serve the public interest, convenience, and

1 necessity. This paragraph shall be effective on the date of its enactment and shall apply to
2 all current and future Commission assignments or reservations of spectrum for domestic
3 satellite services, including, but not limited to, all assignments or reservations for
4 satellite-based broadcasting of television or radio services as of the effective date.

5 “(18) Notwithstanding any other provision of law, the Commission shall assign by
6 competitive bidding any license, construction permit, reservation, or similar authorization
7 or modification thereof, that grants authority to provide the ancillary terrestrial
8 component to mobile satellite services, if the Commission finds that the provision of the
9 ancillary terrestrial component by a provider distinct from the satellite component is
10 technically feasible, such finding to be made within fifteen months of enactment of this
11 provision. If the Commission finds that separate operation of the terrestrial and satellite
12 components to mobile satellite services is not technically feasible, such finding shall be
13 re-examined on a periodic basis, consistent with technological development. This
14 provision shall apply to any assignment made after the date of enactment for mobile
15 satellite services to which terrestrial operations may be authorized, including
16 reassignment of a current authorization. The Commission may reassign any authorization
17 for international or global communications service or domestic satellite communications
18 service if the licensee or permit holder fails to meet service milestones and other
19 requirements as required by the Commission.”